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HOUSE BILL 290

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Roberto J. Gonzales

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO FINANCE; AMENDING THE NEW MEXICO FINANCE AUTHORITY ACT; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO USE THE PUBLIC PROJECT REVOLVING FUND TO CAPITALIZE PROGRAMS AUTHORIZED BY LAW AND TO FINANCE PROJECTS OF SUPPORT ORGANIZATIONS AFFILIATED WITH HIGHER EDUCATIONAL INSTITUTIONS; AMENDING A SECTION OF LAWS 2003 TO EXTEND THE AUTHORIZATION FOR FINANCING OF URGENT ECONOMIC DEVELOPMENT PUBLIC PROJECTS WITHOUT SPECIFIC LEGISLATIVE AUTHORIZATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-21-3 NMSA 1978 (being Laws 1992, Chapter 61, Section 3, as amended) is amended to read:

"6-21-3. DEFINITIONS.--As used in the New Mexico Finance Authority Act:

A. "authority" means the New Mexico finance

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1 authority;

2 B. "bond" means any bonds, notes, certificates of  
3 participation or other evidence of indebtedness;

4 C. "bondholder" or "holder" means a person who is  
5 the owner of a bond, whether registered or not;

6 D. "emergency public project" means a public  
7 project:

8 (1) made necessary by an unforeseen occurrence  
9 or circumstance threatening the public health, safety or  
10 welfare; and

11 (2) requiring the immediate expenditure of  
12 money that is not within the available financial resources of  
13 the qualified entity as determined by the authority;

14 E. "public project" means the acquisition,  
15 construction, improvement, alteration or reconstruction of  
16 assets of a long-term capital nature by a qualified entity,  
17 including land; buildings; water rights; water, sewerage and  
18 waste disposal systems; streets; airports; municipal utilities;  
19 parking facilities; and machinery, furniture and equipment.

20 "Public project" includes all proposed expenditures related to  
21 the entire undertaking. "Public project" also includes the  
22 acquisition, construction or improvement of real property,  
23 buildings, facilities and other assets by the authority for the  
24 purpose of leasing the property;

25 F. "qualified entity" means the state or an agency

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1 or institution of the state or a county, municipality, school  
2 district, two-year public post-secondary educational  
3 institution, land grant corporation, acequia association,  
4 public improvement district, federally chartered college  
5 located in New Mexico, intercommunity water or natural gas  
6 supply association or corporation, special district or  
7 community water association, nonprofit foundation or other  
8 support organization affiliated with a public university,  
9 college or other higher educational institution located in New  
10 Mexico, or an Indian nation, tribe or pueblo located wholly or  
11 partially in New Mexico, including a political subdivision or a  
12 wholly owned enterprise of an Indian nation, tribe or pueblo or  
13 a consortium of those Indian entities; and

14 G. "security" or "securities", unless the context  
15 indicates otherwise, means bonds, notes or other evidence of  
16 indebtedness issued by a qualified entity or leases or  
17 certificates or other evidence of participation in the lessor's  
18 interest in and rights under a lease with a qualified entity  
19 and that are payable from taxes, revenues, rates, charges,  
20 assessments or user fees or from the proceeds of funding or  
21 refunding bonds, notes or other evidence of indebtedness of a  
22 qualified entity or from certificates or evidence of  
23 participation in a lease with a qualified entity."

24 Section 2. Section 6-21-6 NMSA 1978 (being Laws 1992,  
25 Chapter 61, Section 6, as amended) is amended to read:

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1 "6-21-6. PUBLIC PROJECT REVOLVING FUND--PURPOSE--  
2 ADMINISTRATION.--

3 A. The "public project revolving fund" is created  
4 within the authority. The fund shall be administered by the  
5 authority as a separate account, but may consist of such  
6 subaccounts as the authority deems necessary to carry out the  
7 purposes of the fund. The authority may establish procedures  
8 and adopt rules as required to administer the fund in  
9 accordance with the New Mexico Finance Authority Act.

10 B. Except as otherwise provided in the New Mexico  
11 Finance Authority Act, money from payments of principal of and  
12 interest on loans and payments of principal of and interest on  
13 securities held by the authority for public projects authorized  
14 specifically by law shall be deposited in the public project  
15 revolving fund. The fund shall also consist of any other money  
16 appropriated, distributed or otherwise allocated to the fund  
17 for the purpose of financing public projects authorized  
18 specifically by law.

19 C. Money appropriated to pay administrative costs,  
20 money available for administrative costs from other sources and  
21 money from payments of interest on loans or securities held by  
22 the authority, including payments of interest on loans and  
23 securities held by the authority for public projects authorized  
24 specifically by law, that represents payments for  
25 administrative costs shall not be deposited in the public

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1 project revolving fund and shall be deposited in a separate  
2 account of the authority and may be used by the authority to  
3 meet administrative costs of the authority.

4 D. Except as otherwise provided in the New Mexico  
5 Finance Authority Act, money in the public project revolving  
6 fund is appropriated to the authority to pay the reasonably  
7 necessary costs of originating and servicing loans, grants or  
8 securities funded by the fund and to make loans or grants and  
9 to purchase or sell securities to assist qualified entities in  
10 financing public projects in accordance with the New Mexico  
11 Finance Authority Act and pursuant to specific authorization by  
12 law for each project.

13 E. Money in the public project revolving fund not  
14 needed for immediate disbursement, including money held in  
15 reserve, may be deposited with the state treasurer for  
16 short-term investment pursuant to Section 6-10-10.1 NMSA 1978  
17 or may be invested in direct and general obligations of or  
18 obligations fully and unconditionally guaranteed by the United  
19 States, obligations issued by agencies of the United States,  
20 obligations of this state or any political subdivision of the  
21 state, interest-bearing time deposits, commercial paper issued  
22 by corporations organized and operating in the United States  
23 and rated "prime" quality by a national rating service, other  
24 investments permitted by Section 6-10-10 NMSA 1978 or as  
25 otherwise provided by the trust indenture or bond resolution,

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1 if money is pledged for or secures payment of bonds issued by  
2 the authority.

3 F. The authority shall establish fiscal controls  
4 and accounting procedures that are sufficient to assure proper  
5 accounting for public project revolving fund payments,  
6 disbursements and balances.

7 G. Money on deposit in the public project revolving  
8 fund may be used to make interim loans for a term not exceeding  
9 two years to qualified entities for the purpose of providing  
10 interim financing for any project approved or funded by the  
11 legislature.

12 H. Money on deposit in the public project revolving  
13 fund may be used to acquire securities or to make loans to  
14 qualified entities in connection with the equipment program.  
15 As used in this subsection, "equipment program" means the  
16 program of the authority designed to finance:

- 17 (1) the acquisition of equipment for:  
18 (a) fire protection;  
19 (b) law enforcement and protection;  
20 (c) computer and data processing;  
21 (d) street and road construction and  
22 maintenance;  
23 (e) emergency medical services;  
24 (f) solid waste collection, transfer and  
25 disposal;

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1 (g) radio and telecommunications; and

2 (h) utility system purposes; and

3 (2) the acquisition, construction and  
4 improvement of fire stations.

5 I. The amount of securities acquired from or the  
6 loan made to a qualified entity at any one time pursuant to  
7 Subsection H of this section shall not exceed seven hundred  
8 fifty thousand dollars (\$750,000). The authority shall either  
9 obtain specific authorization by law for the projects funded  
10 through the equipment program at a legislative session  
11 subsequent to the acquisitions of the securities or the making  
12 of loans or issue bonds within two years of the date the  
13 securities are acquired or within two years of the date on  
14 which the loans are made and use the bond proceeds to reimburse  
15 the public project revolving fund for the amounts temporarily  
16 used to acquire securities or to make loans. The temporarily  
17 funded projects under the equipment program are not required to  
18 obtain specific authorization by law required of projects  
19 permanently funded from the public project revolving fund, as  
20 provided in this section and Section 6-21-8 NMSA 1978.

21 J. Money on deposit in the public project  
22 revolving fund may be designated as a reserve for any bonds  
23 issued by the authority, including bonds payable from sources  
24 other than the public project revolving fund, and the authority  
25 may covenant in any bond resolution or trust indenture to

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1 maintain and replenish the reserve from money deposited in the  
2 public project revolving fund after issuance of bonds by the  
3 authority.

4 K. Money on deposit in the public project revolving  
5 fund may be used to purchase bonds issued by the authority,  
6 which are payable from any designated source of revenues or  
7 collateral. Purchasing and holding the bonds in the public  
8 project revolving fund shall not, as a matter of law, result in  
9 cancellation or merger of the bonds notwithstanding the fact  
10 that the authority as the issuer of the bonds is obligated to  
11 make the required debt service payments and the public project  
12 revolving fund held by the authority is entitled to receive the  
13 required debt service payments.

14 L. Money on deposit in the public project revolving  
15 fund may be used to capitalize other financing programs of the  
16 authority authorized by law, either directly or from proceeds  
17 of bonds issued by the authority and secured by money in the  
18 public project revolving fund."

19 Section 3. Laws 2003, Chapter 325, Section 4 is amended  
20 to read:

21 "Section 3. DELAYED REPEAL.--The provisions of Section [3  
22 of this act] 6-21-6.6 NMSA 1978 are repealed effective June 30,  
23 [2006] 2009."

24 Section 4. EMERGENCY.--It is necessary for the public  
25 peace, health and safety that this act take effect immediately.

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